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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

Planned Parenthood Association of Utah,
on behalf of itself and its patients, physicians,
and staff,

Plaintiff,

v.

Joseph Miner, in his official capacity as
Executive Director of the Utah Department of
Health, et al.,

Defendants.

Case No. 2:19-cv-00238-CW

**SALT LAKE COUNTY DISTRICT
ATTORNEY SIM GILL’S
AND
PLANNED PARENTHOOD’S
JOINT AND STIPULATED MOTION
FOR ENTRY OF PRELIMINARY
INJUNCTIVE RELIEF**

The Honorable Clark Waddoups

Salt Lake County District Attorney Sim Gill (“DA Gill”) and Plaintiff Planned
Parenthood Association of Utah (“PPAU”), by and through undersigned counsel, submit this
Joint and Stipulated Motion for Entry of Preliminary Injunctive Relief.

In its Complaint (Doc. 2), PPAU alleges that HB136, “Abortion Amendments,” passed by the Utah State Legislature in its 2019 Session, would unconstitutionally restrict the substantive due process rights of patients seeking previability abortions at or after 18 weeks. DA Gill acknowledged in his Answer to the Complaint (Doc. 32) that HB136 appears to be,

plainly contrary to binding legal precedent from the Tenth Circuit Court of Appeals, which in 1996 considered and rejected as constitutionally unsound a similar yet less restrictive Utah statute. *Jane L. v. Bangerter*, 102 F.3d 1112 (10th Cir. 1996) (interpreting United States Supreme Court decisions in *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), to strike down Utah’s then-existing statutory ban on most abortions performed at or after 22 weeks).

...

It is therefore the policy of DA Gill that neither he nor any of his deputies will commence any criminal prosecution in connection with the 18-week ban unless and until the Tenth Circuit or the United States Supreme Court issues an opinion upholding as constitutional the 18-week ban provided for in HB136.

(Doc. 32 at pp. 2-3 (emphasis added).)

PPAU does not believe that DA Gill is obligated to maintain the position on non-enforcement described above, or that such a position—if adopted as a policy of DA Gill’s office—would have any legal effect on PPAU’s claims in this case. PPAU thus believes it has a continuing interest in obtaining preliminary injunctive relief against DA Gill. DA Gill is willing to stipulate to this preliminary injunctive relief because, in his view, it does no more than incorporate the policy of non-enforcement described in his answer.

In light of the parties’ positions, DA Gill and PPAU now stipulate and agree to the entry of a preliminary injunction by which DA Gill and all deputy district attorneys and employees of the Salt Lake County District Attorney’s Office are enjoined from enforcing HB 136 until this matter is decided on the merits by trial or dispositive motion. DA Gill and PPAU further

stipulate and agree that the order should remain in place, if acceptable to the Court, for the duration of an initial appeal by whichever party does not prevail in the District Court.

Respectfully submitted this 8th day of May, 2019.

Sim Gill
Salt Lake County District Attorney

/s Darcy M. Goddard
Darcy M. Goddard
Deputy District Attorney
Counsel for Salt Lake County District Attorney
Sim Gill

/s Julie Murray*
Julie Murray
Jennifer Sandman
Leah Farrell
John Mejia
Counsel for Planned Parenthood Association
of Utah

* Signed electronically with permission from Ms. Murray